



Hal Bunderson
Senator, District 14
Western Ada County

IDAHO STATE SENATE

State Capitol Building
P.O. Box 83720
Boise, Idaho 83720-0081

582 River Heights Drive
Meridian, Idaho 83642
(208) 888-7156

November 14, 2002

Messrs. Charles L. Winder and J.D. Williams, Co-chairmen
Governor's 2002 Blue Ribbon Task Force

Dear Chuck, J.D, and Task Force members:

Thank you for the invitation to meet with Task Force subcommittees to provide information that may assist in your work.

Under the label of privatization, numerous Idaho laws have been passed that benefit one small group. The historical effect of these special interest laws on public policy, taxpayer cost and fairness need to be independently evaluated and justified. I encourage the Task Force to do that.

Before privatization of a government service is allowed, it must be clear that the special interest group providing the product or service can be held publicly accountable and will deliver equal or better quality at less cost. Otherwise, the law merely provides a taxpayer-paid subsidy/windfall.

Hopefully you will find the following ideas and attached information helpful:

Idaho Economic and Tax Revenue and Industry Trend Analysis

1. **Trend analysis (Exhibit I)** –Many of the industries that drove our state's economy in the past are not the economic drivers of the future. The attached economic, tax and industry trend information prepared by the Joint Legislative Economic Outlook and Revenue Assessment Committee should helpful to you.

Ideas to Help Ensure Everyone Pays Their Fair Share

2. **Tax non-filers and avoiders** - There are insufficient tax auditors to catch tax non-filers and avoiders. This causes a tax shift. Taxpayers are unfairly being forced to make-up the unpaid taxes of non-filers and avoiders. The State Tax Commission needs authorization to hire adequate tax auditors to do the job. The auditors are primarily needed to audit out-of-state businesses operating in Idaho but not paying taxes. The Tax Commission's audit caseload is 35,845 with a growth rate faster than their ability to work them down. The Tax commission's outstanding taxes receivable total \$85 million.

A \$1.9 million investment in new auditors is estimated to yield over \$9.2 million of new tax revenue annually.

3. **Special Interests - Indian Tribal businesses (Exhibit II)**: The American Indians have a unique status in federal law. They have both the rights of U.S. citizenship and, if members of a recognized Tribe, Tribal sovereignty that allows many exclusive and special benefits. Granting of these special benefits only to Indians is discriminates against African-Americans, Japanese-Americans and other citizens who have been abused by the federal government. All citizens should be treated equally.

There are five Indian Tribes in Idaho. Some have significant land holdings. Inter-marriage and lack of documented genealogies can make difficult clear identification of who is an Indian and who shall be members of the Tribe. Tribal leaders make that determination. Each Tribe makes its own rules. The 2000 census disclosed the following self-identified Tribal membership/affiliation: Kootenai (110), Coeur d'Alene (858) and Nez Perce (1,962), Paiute-Shoshone-Duck Valley (37) and Shoshone-Bannock (4,019).

Regarding taxation, federal law requires all Indians pay federal taxes. Federal law is different for state taxes. Generally, Tribal members are exempt from paying state taxes. Non-Tribal members are not exempt (see pages 7-10, Attorney General's letter). Idaho has generally not pursued taxation on sales made by tribal businesses to non-Tribal members.

The following is a summation of state taxation and the Tribes:

- **Fuel Taxes** - The three northern tribes (Tribes), with a combined membership of 2,930 are suing the state of Idaho seeking exemption from collecting and remitting state fuel taxes (see ITD, AG and ITC letters in Exhibit III). The suit is now on appeal with the 9th Circuit Court of Appeals.

If the state loses the lawsuit, it must pay the Tribes \$16 million for past taxes and interest from the Highway Distribution Account (HDA.) and a minimum of \$1.8 million per year thereafter. If the Tribes increase the size and number of Tribal gas stations and with Proposition One, improve their destination resort attraction, the annual loss to state and local roads will be much greater.

Another negative effect on fuel taxes is it gives the Tribes significant competitive advantage over Idaho taxpaying retail businesses selling fuel. Tribal business's should be collecting fuel taxes on sales they make to non-tribal members.

- **Sales taxes** - Idaho law, 63-3622Z exempts the Tribes from collecting sales taxes. This law, as it relates to sales to non-tribal members, is unwarranted. It gives unfair competitive advantage over non-Tribal retailers and should be repealed.
- **Tobacco taxes** - The Tribes have not been required to collect and pay state tobacco taxes (18% of the tax goes to public schools) With the state of Washington and other states raising their tobacco tax in a dramatic way, tax-haven Tribal businesses have another competitive advantage over other Idaho retailers. If Idaho raises its tax on tobacco, the problems are exacerbated. The Tribes should be collecting and remitting tobacco taxes on sales to non-members.
- **Income taxes** - The Tribes do not pay state income taxes.
- **Idaho Lottery** - The Tribal casinos compete against the Idaho Lottery which remits half of its profits to public schools. When the Tribal casino went in near Orofino (on Indian Lands), The Tribe required the 29 Idaho Lottery machines in the city to be removed. Result - Idaho Lottery lost \$1 million in revenue.

The total amount of tax revenues not collected and remitted by the Tribes and lost to the state cannot be independently determined because the Tribes are under no requirement to disclose and the state cannot, at this time, independently verify and amounts that may be disclosed by the Tribes.

The pronounced economic advantages provided Tribal special interests is unique among Idaho minorities. No other Idaho minority, some equally deserving, has been given the depth or breadth of discriminatory tax exemptions and subsidies given the Tribes.

If the three northern tribes gaming initiative, Proposition One, becomes law, they will have the power to have exclusive destination resort gambling casinos throughout Idaho. If the state tax laws affecting Tribal business sales to non-Tribal members are not changed, they will have a tax-haven magnet. It will likely lead to the decline or closure of many of the surrounding and competing taxpaying retail businesses resulting in further loss of state tax revenue, with the increased social costs borne by the taxpayers.

4. **Special interests - Beer and Wine wholesalers-distributors and Liquor Licensees**

(Exhibit III): The 1999 Legislative Interim Committee on Idaho's Alcohol Beverage Code identified "Special Interest Groups Sanctioned in Code" and listed beer and wine wholesalers-distributors and liquor licensees as such special interest groups.

- During a period where the cost of alcohol abuse has increased dramatically, the excise tax revenue from beer and wine has eroded. Based on price, the beer tax has decreased over 81% since 1961 and for wine the decrease has been 74% for a total erosion exceeding \$21 million annually. Conversely, the Idaho State Liquor Dispensary (ISLD) reports that its net revenue on one representative product, whiskey, has increased 520%. Compounding the beer and wine tax erosion problem is the growing improper competitive price advantage (product discrimination) that Idaho Law gives beer and wine distributor products competitive price advantage over distilled spirits distributed through ISLD.
- Receipt of a liquor license is specified in Code as a privilege, but in practice, they are treated as a property right with significant commercial value.
Licensees also get a 5% discount on purchases from the ISLD based on an old rationale that no longer applies.
- A survey is in process to determine the current cost of alcohol abuse on state and local governments. The survey (request letter attached) should be complete in December.

5. **Special Interests – Internet sales**: An independent study estimated the 2001 loss of Idaho sales tax revenue on purchases made via the Internet at \$44 million and growing. (Contact Ted Spangler, Attorney General's Office)

Revising Government Structures to Improve Efficiencies and Savings

6. **Lease-to-own and cut building occupancy costs (Exhibit IV)**: In recent years, the legislature passed several laws that allow Idaho to more efficiently and effectively manage and cut the occupancy costs of leased facilities (See the accompanying SB-1340, 1998). Example: Attached is an opportunity for the Idaho State Building Authority to acquire the MK Plaza complex. A structure can be designed that would allow existing private lessees to continue with the balance leased to the state. This acquisition could

save taxpayers \$116 million cash over forty years plus residual value of \$90 million - total \$206 million. (Contact Larry Osgood 332-1900 or Dick Barrell 375-2600)

7. Highway Jurisdictions (Exhibit V): Improve economic development, cut redundancies and excessive administration costs by consolidating the 289 highway jurisdictions in Idaho into one per county (Ada County has the only state-wide highway jurisdiction) or disburse highway distribution account money to each county with local officials prioritizing the spending. Rural Idaho economies need better roads to obtain economic development opportunities. However, by spreading limited funds from state fuel taxes over so many highway jurisdictions does not bring together the critical mass of money necessary to build the roads that will promote economic development.

Education - Cut redundancies and excessive administration costs (Exhibit VI)

8. Public Schools - district consolidation: Evaluate opportunities where it makes sense to consolidate, at least administratively, most of the 114 public school districts.
9. Public Schools - Transportation: The state pays 85% of school bus transportation equipment and systems costs regardless of amount or cost effectiveness. There is wide diversity in operating costs and the amount paid for new buses between districts. This old funding approach provides inadequate incentive for cost savings. Statewide standards and state purchasing contracts for supplies and equipment would cut much of the wasted costs.
10. Public Schools – teacher certification: Current law requires a certified teacher to be present for a course to be accredited. For example, a medical doctor, who is not a certified teacher, would not be able to teach a health class in a public school without a certified teacher present. The quality of teaching could be improved and education costs cut if the “non-certified” teachers standard were relaxed to say 90 percent of teachers must be certified. The non-certified teachers should, of course, require certain training.
11. Higher Education: In 1983, the “Idaho Task Force on Higher Education” preformed a comprehensive study called, “Higher Education In Idaho: A Plan For The Future”. Generally, the recommendations of the Task Force narrowly missed implementation. The problems and issues evaluated by the Task Force have not changed. Included in Exhibit VII is the “Summary of Recommendations” of the Task Force. The full report is available on request.

Economic Development Ideas

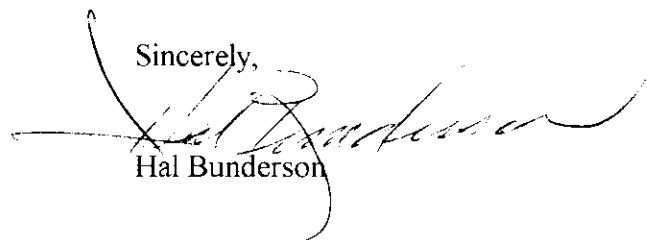
12. Ultra high-speed broadband availability: In 2002, the Interim Legislative Committee on Electronic Commerce has held hearings on this matter. *High-speed broadband is as much as an ordinary and necessary infrastructure as roads, electricity and other utilities.* The future growth of Idaho’s economy will be strongly influenced by the availability of ultra high speed broadband. The City of Boise has engaged a consultant to evaluate Boise’s competitive position with regard to the availability of ultra high speed broadband. Such report is due in December. The City of Boise, the Association of Idaho Cities and Idaho’s Information Technology Resource Management Council (ITRMC) and others will consider the results of this study and may make recommendations to your Task Force and the legislature.

13. Economic Development – Geographic information systems (GIS): In 2002, the Interim Legislative Committee on Electronic Commerce also held hearings on GIS. Most counties and several state agencies have personnel who are expert in GIS technologies. The Homeland Security is also seeking enhanced GIS technologies and information to provide information critical to public safety. Private businesses and citizens are also using GIS information to provide more accurate information critical to sound planning and decision-making.

This January 2003, the Idaho Geospatial Committee (IGC), a sub-committee of ITRMC, plans to present to ITRMC a recommended structure that coordinates and shares GIS information across state and local governments. When complete, the plan is to provide GIS information on the Internet thus facilitating economic development, governmental operations and citizen quality of life. (ITRMC) and others will consider the recommendations of IGC and may make recommendations to your Task Force and the legislature.

14. Economic Development – Tort Reform - Need to cut liability insurance claims: Excessive liability claims and litigation are seriously depressing economic growth. Excessive awards are a major factor behind rapidly escalating medical and product liability insurance premiums. Punitive and other awards that grossly exceed the amount of actual loss need to be limited in law.

Sincerely,

A handwritten signature in black ink, appearing to read "Hal Bunderson", is written over the printed name. The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Hal Bunderson